IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 398 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GEB

Versus

MAHALAXMI SILK INDUSTRIES

Appearance:

1. Appeal from Order No. 398 of 1994

MR MD PANDYA for Petitioner No. 1

NOTICE UNSERVED for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 23/10/2001

ORAL JUDGEMENT

The appellant-Gujarat Electricity Board has challenged in this appeal the impugned order dated 3.6.1993 passed by the learned 4th Joint Civil Judge

(S.D.), Surat below Ex.5 in Special Civil Suit No.171/93 filed by the respondent-plaintiff whereby the learned trial Judge allowed application Ex.5 and directed appellant-original defendant to maintain status quo till the final disposal of the suit and not to disconnect the electricity connection of the respondent-plaintiff on the condition that the plaintiff shall deposit 30% of supplementary bill of Rs.3,07,049.03 within 15 days from the date of the order with the office of the Board.

This appeal was admitted way back on 4.2.1995 without any interim order passed in favour of the appellant.

If this appeal has come up for hearing immediately after its admission, then perhaps I would have gone into the merits of the case but the suit is of 1993 and there is already ex-parte ad-interim order passed in favour of the respondent-plaintiff in 1993, which was by-parte confirmed on condition in 1993, therefore, I do not thing it proper to go into the merits of the case at this stage as the suit is of old one of 1993 and it must have riped for hearing before the trial court. However, interest of appellant Board can be taken care of by directing the trial court to decide the Special Civil Suit No.171/93 as early as possible.

Accordingly, without going into the legality and validity of the impugned order passed by the trial court, the trial Judge is directed to decide the Special Civil Suit NO.171/93 as early as possible and not later than 31.12.2002. Parties shall fully cooperate with the final disposal of the suit. It goes without saying that the observations made by the predecessor while deciding application Ex.5 shall not come in the way of the parties in getting the main Special Civil Application No.171/93 decided on merits. The learned Trial Judge has to decide the suit on the basis of the evidence led before him. With these observations this Appeal from Order is disposed of.

(B.J.Shethna, J.)

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